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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,141	01/19/2001	Peter N. Devreotes	01107.00060	8190

22907 7590 10/18/2005

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EXAMINER

CHANDRA, GYAN

ART UNIT PAPER NUMBER

1646

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/764,141	Applicant(s) DEVREOTES ET AL.	
	Examiner Gyan Chandra	Art Unit 1646	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 11, 13-25, 56 and 77-93.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11 does not place the application in condition for allowance because:

Applicant's Response to Final Rejection filed on 9/8/05 is acknowledged. Applicants' arguments with respect to the rejection of claims 11, 14-19, 21, 22, 25 and 56 under 35 U.S.C. 103(a) as being unpatentable over Miyawaki et al. (Nature 388: 882-887, 1997) in view of Jin et al. (Mol. Biol. Cell 9:2949-2961, 1998) is maintained for reasons of record on p. 2-4 of Office Action mailed on 05/02/05.

Applicants argue that Miyaki et al teach a different fusion protein(s) which are capable of FRET and Jin teaches formation of heterotrimer with G alpha and G beta gamma subunits. They argue that the interaction of the heterotrimeric G protein subunits was done on isolated proteins in vitro.

Applicants' arguments have been fully considered but have not been found to be persuasive because (as stated in the previous Office Action) that Miyawaki teaches on page 882, column 2, that fusion proteins often preserve biochemical function and cellular localization. Miyawaki further teaches that FRET is a non-destructive method. Therefore, G protein coupled receptor would often preserve their biological function.

The rejection of claims 13, 77-86, 89, and 91-93 under 35 U.S.C. 103(a) as being unpatentable over Miyawaki et al. in view of Jin et al. as applied to claims 11, 14-19, 21, 22, 25 and 56, and further in view of Xu et al. (Proc. Natl. Acad. Sci. USA 96: 151-156, 1999) is maintained for the reasons of record on page 4-5 of Office Action mailed on 5.2/05.

The rejection of claims 20, 23-24, 87-88, and 90 under 35 U.S.C. 103(a) as being unpatentable over Mayawaki et al. in view of Jin et al. as applied to claims 11, 14-19, 21, 22, 25 and 56, and further in view of Medina et al. (J. Biol. Chem. 271: 24720-24727, 1996) and Wall et.al. (Cell 83:1047-1058, 1995) is maintained for the reasons of record in the previous office action.

Applicants argue that the tertiary references demonstrate a feature found in one of the rejected claims however, they do not remedy the deficiencies of Miyaki and Jin references.

Applicants arguments have been fully considered but they have not been found to be persuasive for the reasons setforth supra.


JANET L. ANDRES
SUPERVISORY PATENT EXAMINER